

**Executive Summary – Enforcement Matter – Case No. 43653**  
**SOUTHWESTERN HOLDINGS, INC.**  
**RN101214336**  
**Docket No. 2012-0469-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Cibolo Creek Ranch, located 34 miles south of Marfa off of Highway 67, Presidio County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 7, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$2,513

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$2,513

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 43653**  
**SOUTHWESTERN HOLDINGS, INC.**  
**RN101214336**  
**Docket No. 2012-0469-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 17, 2012

**Date(s) of NOE(s):** January 20, 2012

***Violation Information***

1. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notice of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notice of the failure to conduct increased monitoring [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)].
3. Failed to pay all annual public health service fees for fiscal year of 2012, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 91890015 [30 TEX. ADMIN. CODE § 290.51(b) and TEX. WATER CODE § 5.702].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 10 days:
  - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility; and
  - ii. Begin complying with applicable coliform monitoring requirements, including the collection of all routine, repeat and increased distribution samples when required, and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.
- b. Within 30 days, submit payment for all outstanding fees, interest and penalties for TCEQ Financial Administration Account No. 91890015.

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c. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. and b.

d. Within 195 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Andrea Linson, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** John Poindexter, President, SOUTHWESTERN HOLDINGS, INC., 600 Travis Street, Suite 200, Houston, Texas 77002

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	30-Jan-2012	<b>Screening</b>	14-Feb-2012	<b>EPA Due</b>	30-Sep-2011
	<b>PCW</b>	24-Feb-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	SOUTHWESTERN HOLDINGS, INC.				
<b>Reg. Ent. Ref. No.</b>	RN101214336				
<b>Facility/Site Region</b>	6-El Paso	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	43653	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-0469-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Andrea Linson
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$1,000**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **29.0%** Enhancement **Subtotals 2, 3, & 7** **\$290**

Notes Enhancement for five NOV's with the same violations and two NOV's with dissimilar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$293  
Approx. Cost of Compliance \$375  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$1,290**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **22.5%** **Adjustment** **\$290**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement for the recovery of avoided costs associated with Violation Nos. 1 and 2.

**Final Penalty Amount** **\$1,580**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$1,580**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$1,580**

Screening Date 14-Feb-2012

Docket No. 2012-0469-PWS-E

PCW

Respondent SOUTHWESTERN HOLDINGS, INC.

Policy Revision 2 (September 2002)

Case ID No. 43653

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101214336

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 29%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for five NOVs with the same violations and two NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 29%

Screening Date 14-Feb-2012

Docket No. 2012-0469-PWS-E

PCW

Respondent SOUTHWESTERN HOLDINGS, INC.

Policy Revision 2 (September 2002)

Case ID No. 43653

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101214336

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of April 2011, June 2011 and August 2011; and failed to provide public notice of the failure to sample for the months of April 2011 and June 2011.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to perform routine coliform monitoring and provide public notification could result in persons served by the Facility being exposed to significant amounts of undetected contaminants, which would exceed levels protective of human health.

Adjustment \$750

\$250

## Violation Events

Number of Violation Events 3

91 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$750

Three monthly events are recommended, based on one event for each month the required samples were not collected.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$137

Violation Final Penalty Total \$1,185

This violation Final Assessed Penalty (adjusted for limits) \$1,185

# Economic Benefit Worksheet

**Respondent** SOUTHWESTERN HOLDINGS, INC.  
**Case ID No.** 43653  
**Req. Ent. Reference No.** RN101214336  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	17-Jan-2012	10-Sep-2012	0.65	\$3	n/a	\$3

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner, calculated from the record review date to the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$75	1-Apr-2011	31-Aug-2011	1.33	\$5	\$75	\$80
Other (as needed)	\$50	1-May-2011	30-Sep-2011	1.33	\$3	\$50	\$53

Notes for AVOIDED costs

The avoided costs include the estimated amount (\$25 x 3 samples and \$25 x 2 notifications) to conduct routine coliform sampling and provide public notification of the failure to sample, calculated for the months sampling was not conducted and the period that a public notice was required.

Approx. Cost of Compliance

\$225

TOTAL

\$137



Screening Date 14-Feb-2012

Docket No. 2012-0469-PWS-E

PCW

Respondent SOUTHWESTERN HOLDINGS, INC.

Policy Revision 2 (September 2002)

Case ID No. 43653

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101214336

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)

Violation Description

Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notice of the failure to conduct increased monitoring for the month of March 2011.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to properly sample and provide public notification may expose persons served by the Facility to a significant amount of undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

## Violation Events

Number of Violation Events 1

31

Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$250

One monthly event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$157

Violation Final Penalty Total \$395

This violation Final Assessed Penalty (adjusted for limits) \$395

# Economic Benefit Worksheet

Respondent SOUTHWESTERN HOLDINGS, INC.  
Case ID No. 43653  
Reg. Ent. Reference No. RN101214336  
Media Public Water Supply  
Violation No. 2

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost associated with this violation is captured in economic benefit of Violation No. 1 of this PCW.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$125	1-Mar-2011	31-Mar-2011	1.00	\$6	\$125	\$131
Other (as needed)	\$25	1-Apr-2011	30-Jun-2011	1.16	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary (\$25 per sample x 5 samples + \$25 per public notice) to conduct routine coliform sampling and provide public notification of the failure to sample, calculated for the months in which increased monitoring was not properly conducted and for the period that public notifications should have been provided.

Approx. Cost of Compliance

\$150

TOTAL

\$157

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600656987 Southwestern Holdings, Inc. Classification: Rating:

Regulated Entity: RN101214336 CIBOLO CREEK RANCH Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1890015

Location: THIRTY-FOUR MILES SOUTH OF MARFA OFF OF HIGHWAY 67, PRESIDIO COUNTY, TEXAS

TCEQ Region: REGION 06 - EL PASO

Date Compliance History Prepared: February 24, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 30, 2007 to January 30, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrea Linson Phone: (512) 239-1482

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? Since? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	08/07/2008 (689107)	6	01/19/2012 (981405)
2	02/02/2009 (725592)	7	01/19/2012 (981417)
3	02/15/2011 (891730)	8	01/19/2012 (981441)
4	04/05/2011 (907156)	9	01/19/2012 (981447)
5	01/18/2012 (981317)	10	01/27/2012 (981574)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/08/2008 (689107) CN600656987

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)(1)(A)  
30 TAC Chapter 290, SubChapter D 290.39(j)(1)(B)  
30 TAC Chapter 290, SubChapter D 290.39(j)(1)(C)  
30 TAC Chapter 290, SubChapter D 290.39(j)(1)(D)  
30 TAC Chapter 290, SubChapter D 290.39(j)(1)(E)

Description: Failure to notify the executive director prior to making a significant change to the system's storage. The regulated entity has taken the 20,000 gallon ground storage tank off the system, since it has significant non-compliance issues.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(2)(C)

Description: Failure to chlorinate prior to storage.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)

Description: Failure to properly house the disinfection equipment.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)  
 Description: Failure to use ANSI/NSF approved bleach.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
 Description: Failure to have a monitoring plan.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  
 Description: Failure to have a vent for the well casing.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
 Description: Failure to have annual tank inspection.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(c)(1)(A)(i)  
 30 TAC Chapter 290, SubChapter D 290.45(c)(1)(A)(ii)  
 Description: Failure to have a pressure tank capacity of ten gallons per unit with a minimum requirement of 220 gallons.

Date: 02/16/2011 (891730)

CN600656987

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
 Description: Failure to provide the well site with an intruder-resistant fence. The fence is not six feet in height and does not have three strands of barbed wire extending outward from the top of the fence at a 45 degree angle around the entire fence.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(6)  
 Description: Failure to provide the well with a proper sampling tap for treated water.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)  
 Description: Failure to provide all three (3) pressure tanks with a pressure release device and a functioning pressure gauge.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)  
 Description: Failure to maintain a minimum disinfection residual of 0.2 mg/L (free chlorine) throughout the distribution system at all times. The chlorine residual at the water spigot located outside of the laundry room was 0.01 mg/L.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)  
 Description: Failure to maintain a record of the amount of chemical used each week.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)  
 Description: Failure to maintain a record of the flushing of dead-end mains at monthly intervals.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
 Description: Failure to conduct and maintain a record of the annual tank inspections on all three (3) pressure tanks for 2010.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)  
 Description: Failure to maintain a record of the accuracy of the manual disinfectant residual analyzer using chlorine solutions of known concentrations.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(B)  
 Description: Failure to maintain a record of the Disinfection Level Quarterly Operating Reports for the period beginning October of 2010 and ending December of 2010.

Date: 04/29/2011 (981317)

CN600656987

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: TCR Increase Monitoring Violation 03/2011 - Failure to collect any of the 5 distribution samples following a coliform found month.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
 30 TAC Chapter 290, SubChapter F 290.122(f)  
 Description: Mar 2011 TCR PN Increase Monitoring Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code § 290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 03/2011.

Date: 06/03/2011 (981405) CN600656987

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 04/2011 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)

30 TAC Chapter 290, SubChapter F 290.122(f)

Description: Apr 2011 TCR PN Routine Monitoring Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code § 290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 04/2011.

Date: 08/26/2011 (981417) CN600656987

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 06/2011 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)

30 TAC Chapter 290, SubChapter F 290.122(f)

Description: Jun/2011 TCR PN Routine Monitoring Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code § 290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 06/2011.

Date: 10/07/2011 (981441) CN600656987

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 08/2011 - Failure to collect any routine monitoring sample(s).

Date: 11/17/2011 (981447) CN600656987

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 09/2011 - Failure to collect any routine monitoring sample(s).

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**  
**DATES**

Assigned

30-Jan-2012

PCW

24-Feb-2012

Screening

14-Feb-2012

EPA Due

30-Sep-2011

## RESPONDENT/FACILITY INFORMATION

Respondent

SOUTHWESTERN HOLDINGS, INC.

Reg. Ent. Ref. No.

RN101214336

Facility/Site Region

6-El Paso

Major/Minor Source

Minor

## CASE INFORMATION

Enf./Case ID No.

43653

Docket No.

2012-0469-PWS-E

Media Program(s)

Public Water Supply

Multi-Media

No. of Violations

2

Order Type

Findings

Government/Non-Profit

No

Enf. Coordinator

Andrea Linson

EC's Team

Enforcement Team 2

Admin. Penalty \$ Limit Minimum

\$50

Maximum

\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1**

**\$600**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**

**29.0%**

Enhancement

**Subtotals 2, 3, & 7**

**\$174**

Notes

Enhancement for five NOV's with the same violations and two NOV's with dissimilar violations.

**Culpability**

No

**0.0%**

Enhancement

**Subtotal 4**

**\$0**

Notes

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments**

**Subtotal 5**

**\$0**

**Economic Benefit**

**0.0%** Enhancement\*

**Subtotal 6**

**\$0**

Total EB Amounts

\$159

Approx. Cost of Compliance

\$150

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7**

**Final Subtotal**

**\$774**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

**20.5%**

**Adjustment**

**\$159**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Enhancement for the recovery of avoided costs associated with Violation No. 1.

**Final Penalty Amount**

**\$933**

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty**

**\$933**

**DEFERRAL**

**0.0%**

Reduction

**Adjustment**

**\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

**\$933**

Screening Date 14-Feb-2012

Docket No. 2012-0469-PWS-E

PCW

Respondent SOUTHWESTERN HOLDINGS, INC.

Policy Revision 3 (September 2011)

Case ID No. 43653

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101214336

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 29%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for five NOVs with the same violations and two NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 29%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 29%



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Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of September 2011 through December 2011; and failed to provide public notice of the failure to sample for the months of August and September 2011.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to perform routine coliform monitoring and provide public notification could result in persons served by the Facility being exposed to significant amounts of undetected contaminants, which would exceed levels protective of human health.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 4

121 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$600

Four monthly events are recommended, based on one event for each month the required samples were not collected.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$600

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$159

Violation Final Penalty Total \$933

This violation Final Assessed Penalty (adjusted for limits) \$933

## Economic Benefit Worksheet

**Respondent** SOUTHWESTERN HOLDINGS, INC.

**Case ID No.** 43653

**Reg. Ent. Reference No.** RN101214336

**Media** Public Water Supply

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost associated with this violation is captured in economic benefit of Violation No. 1 of the Revision 2 PCW.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]							
Other (as needed)							
	\$100	1-Sep-2011	31-Dec-2011	1.25	\$6	\$100	\$106
	\$50	1-Sep-2011	31-Dec-2011	1.25	\$3	\$50	\$53

**Notes for AVOIDED costs**

The avoided costs include the estimated amount (\$25 x 4 samples and \$25 x 2 notifications) to conduct routine coliform sampling and provide public notification of the failure to sample, calculated for the months sampling was not conducted and the period that a public notice was required.

**Approx. Cost of Compliance**

\$150

**TOTAL**

\$159

Screening Date 14-Feb-2012

Docket No. 2012-0469-PWS-E

PCW

Respondent SOUTHWESTERN HOLDINGS, INC.

Policy Revision 3 (September 2011)

Case ID No. 43653

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101214336

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.51(b) and Tex. Water Code § 5.702

Violation Description

Failed to pay all annual Public Health Service ("PHS") fees, for fiscal year of 2012, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 91890015.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Adjustment \$1,000

\$0

## Violation Events

Number of Violation Events

Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A		(mark with x)

Notes

Violation Subtotal \$0

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

# Economic Benefit Worksheet

Respondent SOUTHWESTERN HOLDINGS, INC.  
 Case ID No. 43653  
 Reg. Ent. Reference No. RN101214336  
 Media Public Water Supply  
 Violation No. 2

Percent Interest 5.0  
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
 Item Description No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
SOUTHWESTERN HOLDINGS, INC.	§	
RN101214336	§	ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2012-0469-PWS-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding SOUTHWESTERN HOLDINGS, INC. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located 34 miles south of Marfa off of Highway 67 in Presidio County, Texas (the "Facility") that has approximately 22 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on January 17, 2012, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of April 2011, June 2011 and August through December 2011; and failed to provide public notice of the failure to sample for the months of April 2011, June 2011, August 2011 and September 2011.
3. During a record review conducted on January 17, 2012, TCEQ staff documented that the Respondent did not collect at least five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notice of the failure to conduct increased monitoring for the month of March 2011.
4. During a record review conducted on February 24, 2012, TCEQ staff documented that the Respondent did not pay all annual Public Health Service ("PHS") fees, for fiscal year of 2012, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 91890015.
5. The Respondent received notice of the violations on January 23, 2012.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notice of the failure to sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notice of the failure to conduct increased monitoring, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to pay all annual PHS fees, for fiscal year of 2012, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 91890015, in violation of 30 TEX. ADMIN. CODE § 290.51(b) and TEX. WATER CODE § 5.702.
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of Two Thousand Five Hundred Thirteen Dollars (\$2,513) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Two Thousand Five Hundred Thirteen Dollar (\$2,513) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Five Hundred Thirteen Dollars (\$2,513) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: SOUTHWESTERN HOLDINGS, INC., Docket No. 2012-0469-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Agreed Order:
    - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
    - ii. Begin complying with applicable coliform monitoring requirements, including the collection of all routine, repeat and increased distribution samples when required, and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.
  - b. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, interest and penalties for TCEQ Financial Administration Account No. 91890015. The payment shall be sent with the notation "Re:

SOUTHWESTERN HOLDINGS, INC.

DOCKET NO. 2012-0469-PWS-E

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SOUTHWESTERN HOLDINGS, INC., Financial Administration Account No. 91890015" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.b.
- d. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.



4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SOUTHWESTERN HOLDINGS, INC.  
DOCKET NO. 2612-0469-PWS-E  
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## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Joren J.

For the Executive Director

10/23/12

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of SOUTHWESTERN HOLDINGS, INC. I am authorized to agree to the attached Agreed Order on behalf of SOUTHWESTERN HOLDINGS, INC., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, SOUTHWESTERN HOLDINGS, INC. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]  
Signature

Oct. 10 2012  
Date

John Pindexter  
Name (Printed or typed)

President  
Title

Authorized Representative of  
SOUTHWESTERN HOLDINGS, INC.

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.